

AMENDED IN ASSEMBLY MARCH 24, 2008

AMENDED IN ASSEMBLY JUNE 18, 2007

AMENDED IN SENATE MAY 9, 2007

AMENDED IN SENATE APRIL 11, 2007

**SENATE BILL**

**No. 593**

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**Introduced by Senator Margett**

February 22, 2007

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An act to add Section 7202 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 593, as amended, Margett. Department of Transportation: retention proceeds.

Existing law contains various provisions relating to contracts for the performance of public works of improvement, including provisions for the disbursing and withholding of retention proceeds.

This bill would ~~authorize~~ *prohibit* the Department of Transportation to ~~withhold from withholding~~ retention proceeds ~~under specified circumstances and in a limited amount, as provided~~ *when making progress payments for work performed by a contractor*.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7202 is added to the Public Contract
- 2 Code, to read:

1 7202. (a) ~~(1) Notwithstanding any other law, in a contract~~  
2 ~~with the Department of Transportation where the number of~~  
3 ~~working days charged to the contract exceeds 75 percent of the~~  
4 ~~number of working days allowed in the current time of completion~~  
5 ~~and the percent of working days elapsed exceeds the percent of~~  
6 ~~work completed by more than 15 percentage points, the Department~~  
7 ~~of Transportation is authorized to withhold retention proceeds~~  
8 ~~when making progress payments to the contractor for work~~  
9 ~~performed. the Department of Transportation is prohibited from~~  
10 ~~withholding retention proceeds when making progress payments~~  
11 ~~to a contractor for work performed.~~

12 ~~(2) The percentage of the retention proceeds withheld pursuant~~  
13 ~~to paragraph (1) shall not exceed 10 percent of the progress~~  
14 ~~payment due.~~

15 ~~(b) When the percent of working days elapsed minus the percent~~  
16 ~~of work completed is less than or equal to 15 percentage points,~~  
17 ~~any retention proceeds withheld shall be released with the next~~  
18 ~~progress payment.~~

19 ~~(c) For purposes of this section, the following apply:~~

20 ~~(1) “Number of contract working days in the current time of~~  
21 ~~completion” means the original number of contract working days~~  
22 ~~as increased or decreased by the time adjustments approved by the~~  
23 ~~engineer.~~

24 ~~(2) “Percent of work completed” shall be calculated by dividing~~  
25 ~~the sum of all payments made by the Department of Transportation~~  
26 ~~plus any current amounts due by the current total estimated value~~  
27 ~~of the work, expressed as a percentage.~~

28 ~~(3) “Percent of working days elapsed” shall be calculated by~~  
29 ~~dividing the number of working days charged to the contract by~~  
30 ~~the number of working days allowed in the current time of~~  
31 ~~completion, expressed as a percentage.~~

32 ~~(b) Nothing in this section shall alter, amend, or impair the~~  
33 ~~rights, duties, and obligations of an original contractor, its~~  
34 ~~subcontractors, and all subcontractors thereunder, relating to the~~  
35 ~~construction of any public work of improvement as set forth in~~  
36 ~~Section 7200 of the Public Contract Code.~~